

Assembly Bill No. 341

CHAPTER 156

An act to amend Section 14087.54 of the Welfare and Institutions Code, relating to health care, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 30, 2005. Filed with
Secretary of State August 30, 2005.]

LEGISLATIVE COUNSEL'S DIGEST

AB 341, Daucher. County health care delivery systems.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services and under which qualified low-income persons are provided health care services.

Existing law authorizes a county or counties to establish, by ordinance, a special commission in order to meet the problems of the delivery of publicly assisted medical care and to demonstrate ways of promoting quality care and cost efficiency, and to negotiate an exclusive contract with the California Medical Assistance Commission to provide or arrange for the provision of health care services provided under the Medi-Cal program.

Existing law also authorizes the commission operating in Santa Cruz and Monterey Counties pursuant to the above provisions to enter into contracts for the provision of health care services to persons who are eligible to receive medical benefits under any publicly supported program, if the commission and participating providers acting pursuant to subcontracts with the commission agree to hold harmless the beneficiaries of the publicly supported programs if the contract between the sponsoring government agency and the commission does not ensure sufficient funding to cover program costs.

This bill would reinstate provisions that took effect on June 9, 2005, which were superseded by Chapter 80 of the Statutes of 2005, to authorize a county, by ordinance, to authorize the special commission to provide delivery systems for persons eligible to receive health care services under the Medicare Program and under both the Medi-Cal program and Medicare Program. This bill would require a special commission providing delivery systems pursuant to this provision to obtain a license under the Knox-Keene Health Care Service Plan Act under certain circumstances, to conform to applicable state licensing and freedom of choice requirements as directed by the federal Centers for Medicare and Medicaid Services, and to provide notice that includes eligibility and enrollment information for those persons who are dually eligible to receive medical benefits under both the Medi-Cal program and the Medicare

Program. These provisions would have continuous operation from June 9, 2005.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 14087.54 of the Welfare and Institutions Code, as amended by Chapter 80 of the Statutes of 2005, is amended to read:

14087.54. (a) Any county or counties may establish a special commission in order to meet the problems of the delivery of publicly assisted medical care in the county or counties and to demonstrate ways of promoting quality care and cost efficiency.

(b) (1) A county board of supervisors may, by ordinance, establish a commission to negotiate the exclusive contract specified in Section 14087.5 and to arrange for the provision of health care services provided pursuant to this chapter. The boards of supervisors of more than one county may also establish a single commission with the authority to negotiate an exclusive contract and to arrange for the provision of services in those counties. If a board of supervisors elects to enact this ordinance, all rights, powers, duties, privileges, and immunities vested in a county by this article shall be vested in the county commission. Any reference in this article to "county" shall mean a commission established pursuant to this section.

(2) The commission operating in Santa Cruz and Monterey Counties pursuant to this section may also enter into contracts for the provision of health care services to persons who are eligible to receive medical benefits under any publicly supported program, if the commission and participating providers acting pursuant to subcontracts with the commission agree to hold harmless the beneficiaries of the publicly supported programs if the contract between the sponsoring government agency and the commission does not ensure sufficient funding to cover program costs. The commission shall not use any payments or reserves from the Medi-Cal program for this purpose.

(3) In addition to the authority specified in paragraph (1), the board of supervisors may, by ordinance, authorize the commission established pursuant to this section to provide health care delivery systems for any or all of the following persons:

(A) Persons who are eligible to receive medical benefits under both Title 18 of the federal Social Security Act (42 U.S.C. Sec. 1395 et seq.) and Title 19 of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.).

(B) Persons who are eligible to receive medical benefits under Title 18 of the federal Social Security Act (42 U.S.C. Sec. 1395).

(4) For purposes of providing services to persons described in paragraph (3), if the commission seeks a contract with the federal Centers

for Medicare and Medicaid Services to provide Medicare services as a Medicare Advantage program, the commission shall first obtain a license under the Knox-Keene Health Care Service Plan Act (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).

(5) With respect to the provision of services for persons described in paragraph (3), the commission shall conform to applicable state licensing and freedom of choice requirements as directed by the federal Centers for Medicare and Medicaid Services.

(6) Any material, provided to a person described in paragraph (3) who is dually eligible to receive medical benefits under both the Medi-Cal program and the Medicare Program, regarding the enrollment or availability of enrollment in Medicare services established by the commission shall include notice of all of the following information in the following format:

(A) Medi-Cal eligibility will not be lost or otherwise affected if the person does not enroll in the plan for Medicare benefits.

(B) The person is not required to enroll in the Medicare plan to be eligible for Medicare benefits.

(C) The person may have other choices for Medicare coverage and for further assistance may contact the federal Centers for Medicare and Medicaid Services (CMS) at 1-800-MEDICARE or <www.Medicare.gov>.

(D) The notice shall be in plain language, prominently displayed, and translated into any language other than English that the commission is required to use in communicating with Medi-Cal beneficiaries.

(c) It is the intent of the Legislature that if a county forms a commission pursuant to this section, the county shall, with respect to its medical facilities and programs occupy no greater or lesser status than any other health care provider in negotiating with the commission for contracts to provide health care services.

(d) The enabling ordinance shall specify the membership of the county commission, the qualifications for individual members, the manner of appointment, selection, or removal of commissioners, and how long they shall serve, and any other matters as a board of supervisors deems necessary or convenient for the conduct of the county commission's activities. A commission so established shall be considered an entity separate from the county or counties, shall be considered a public entity for purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, and shall file the statement required by Section 53051 of the Government Code. The commission shall have in addition to the rights, powers, duties, privileges, and immunities previously conferred, the power to acquire, possess, and dispose of real or personal property, as may be necessary for the performance of its functions, to employ personnel and contract for services required to meet its obligations, to sue or be sued, and to enter into agreements under Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code. Any

obligations of a commission, statutory, contractual, or otherwise, shall be the obligations solely of the commission and shall not be the obligations of the county or of the state.

(e) Upon creation, a commission may borrow from the county or counties, and the county or counties may lend the commission funds, or issue revenue anticipation notes to obtain those funds necessary to commence operations.

(f) In the event a commission may no longer function for the purposes for which it was established, at such time as the commission's then existing obligations have been satisfied or the commission's assets have been exhausted, the board or boards of supervisors may by ordinance terminate the commission.

(g) Prior to the termination of a commission, the board or boards of supervisors shall notify the State Department of Health Services of its intent to terminate the commission. The department shall conduct an audit of the commission's records within 30 days of the notification to determine the liabilities and assets of the commission. The department shall report its findings to the board or boards within 10 days of completion of the audit. The board or boards shall prepare a plan to liquidate or otherwise dispose of the assets of the commission and to pay the liabilities of the commission to the extent of the commission's assets, and present the plan to the department within 30 days upon receipt of these findings.

(h) Upon termination of a commission by the board or boards, the county or counties shall manage any remaining assets of the commission until superseded by a department approved plan. Any liabilities of the commission shall not become obligations of the county or counties upon either the termination of the commission or the liquidation or disposition of the commission's remaining assets.

(i) Any assets of a commission shall be disposed of pursuant to provisions contained in the contract entered into between the state and the commission pursuant to this article.

SEC. 2. This act reinstates the amendments to Section 14087.54 of the Welfare and Institutions Code made by Chapter 13 of the Statutes of 2005 (Assembly Bill 65). The provisions added by this act shall have continuous operation from June 9, 2005.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to reenact, as soon as possible, the amendments made to Section 14087.54 of the Welfare and Institutions Code by Chapter 13 of the Statutes of 2005 (Assembly Bill 65), which were inadvertently deleted by the subsequent amendment of that same section by Chapter 80 of the Statutes of 2005 (Assembly Bill 131), and thereby ensure uninterrupted authority for important changes in health care delivery systems in certain

geographical areas of the state, it is necessary that this act take effect immediately.

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